

CCASE:
SOL (MSHA) V. FARCO MINING OF TEXAS INC.,
DDATE:
19930720
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. CENT 93-24
Petitioner : A.C. No. 41-02803-03552
v. :
 : Docket No. CENT 93-48
FARCO MINING OF TEXAS INC., : A.C. No. 41-02803-03553
Respondent :
 : Palafox Mine

ORDER DISAPPROVING SETTLEMENTS
ORDER TO SUBMIT INFORMATION

Before: Judge Feldman

These cases are before me upon petitions for assessment of civil penalties under Section 105(d) of the Federal Mine and Safety and Health Act of 1977. The parties have filed Joint Motions to Approve Settlements of the seven alleged violations involved in these cases. The parties seek approval of reductions in the proposed civil penalty assessments as follows:

CENT 93-24	\$8,630	to	\$3,335
CENT 93-48	\$7,000	to	\$3,400

The parties request me to consider the premises presented in their Joint Motion to support their request for my approval of their agreement. However, the premises presented are superficial and do not address the specific rationale for the reduction in penalties or for the removal of the pertinent significant and substantial designations or unwarrantable failure findings. Section 110(k), 30 U.S.C. 820(k), requires Commission approval of any settlement agreement in these matters. The Commission must consider whether the terms of the proposed settlement are consistent with the six statutory criteria set forth in Section 110(i) of the Act, 30 U.S.C. 820(i). See Sellersburg Stone Company v. Federal Mine Safety and Health Review Commission, 736 F.2d 1147 (7th Cir. 1984).

Based upon the absence of supporting information in the parties' motion, I am unable to conclude that the recommended penalty reductions are appropriate. Accordingly, it IS ORDERED that the motions for approval of settlement ARE DENIED. IT IS FURTHER ORDERED that the parties shall provide additional information specific to each citation in issue supporting their motions for reductions in civil penalties and for the

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modifications of the pertinent citations. This information should be provided within 30 days of the date of this order. Failure to timely provide the requested information will result in the scheduling of these cases for hearing.

Jerold Feldman
Administrative Law Judge

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